

REMARKS

Withdrawal of the restriction requirement is respectfully requested. Applicants traverse the restriction requirement because search and examination of the entire application would not be a serious burden on the Examiner and /or the restriction requirement does not meet the requirements of 35 U.S.C. § 121. Applicants additionally request the U.S.P.T.O. provide Applicants with clarification concerning comments regarding a reference teaching selective deposition of a dielectric layer.

The search and examination of all claims would not be a serious burden on the Examiner. A search of the method claims would involve searching for semiconductor devices having bond pads, dielectric support structures, and a conductive capping layer, which are included in the device claims. The Examiner will inherently search the subject matter included within the device claims when he or she searches the method claims. Accordingly, examination of all the claims is not a serious search burden on the Examiner. Therefore, the Examiner must examine the entire application on the merits even if it includes claims to independent and distinct inventions (which is discussed below). M.P.E.P. § 803.

The Examiner has identified two sets of claims in the restriction requirement. Both sets of claims are related to semiconductor devices having bond pads, dielectric support structures, and a conductive capping layer and processes for forming those devices. Both sets of claims are not independent and distinct from each other as required by 35 U.S.C. § 121. The restriction requirement did not address the independence requirement at all. Please note that 35 U.S.C. § 121 states “independent and distinct,” and does not state “independent or distinct.” When statutory interpretation is at issue, the plain and unambiguous meaning of a statute prevails in the absence of clearly expressed legislative intent to the contrary. *In re Donaldson Co., Inc.*, 29 U.S.P.Q. 2d 1845, 1848 (Fed. Cir., 1994). The Commissioner's or M.P.E.P.'s interpretation is not legislative intent. “And” means “both,” not “one or the other.” The fact that the P.T.O. may have failed to adhere to a statutory mandate over an extended period of time does not justify its continuing to do so. *Id.* at 1849. The claims are not independent from one another because they all relate to the same thing, namely semiconductor devices having bond pads, dielectric support structures, and a conductive capping layer.

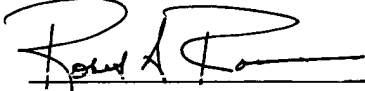
Applicants traverse the Examiner's statements that selectively depositing a dielectric layer is a viable option with respect to the present invention. Applicants hereby request the U.S.P.T.O. provide Applicants either with a reference teaching selective deposition of a

dielectric layer which could be used in context with the present invention or withdraw the restriction requirement.

If the restriction requirement is not withdrawn, Applicants elect to prosecute the invention of claims 1-11 (method claims). Applicants earnestly solicit allowance of the pending claims. Contact me if there are any issues regarding this amendment or the current Application.

Respectfully submitted,

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Date



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